

IN RE: PETITION FOR SPECIAL VARIANCE
N/S Knoll Acres Road, 210' E
of Cub Hill Road
(2900 Knoll Acres Road)
9th Election District
6th Councilmanic District
Reese Carroll Wellmann
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-490-SA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special variance to permit the construction of a single family dwelling on a proposed lot in an area where an intersection failure exists on the basic services transportation map, in accordance with Petitioner's Exhibit 1.

The Petitioner appeared and testified. Also appearing on behalf of the Petition was Petitioner's father, Reese F. Wellman, and adjoining residents, Doris A. Bernhardt and Alias and Caroline Ensor. There were no Protestants.

Testimony indicated that the subject property, known as 2900 Knoll Acres Road (Lot 2), consists of .531 acres zoned D.R. 2 and is presently unimproved. Said property was recently transferred to Petitioner by his father and is part of a larger parcel which has been owned by Petitioner's father for an extended period of time. Petitioner testified he has resided on the adjoining property, known as 2902 Knoll Acres Road, designated as Lot 1 on Petitioner's Exhibit 1, with his father and teenage daughter for the past 8 years. Testimony indicated Petitioner's father recently purchased Lot 2 in order for his son to build his own home for himself and his daughter. Petitioner testified that the granting of the variance would not result in any detriment to the public health, safety or general welfare as there will be no increase in traffic by the additional

residence. He noted that he and his daughter currently travel the same route from his father's residence and will now simply be exiting from their home. Mr. Wellmann further noted that the intersection at Harford and Cub Hill Roads, which is the site of the failure on the basic services transportation map, is in the opposite direction they travel to and from work on a daily basis. Mr. Wellmann argued that to deny the requested variance would result in practical difficulty for him and his family who are desirous of remaining in the area but independent from his father. He emphasized the close relationship and assistance he provides for his 82-year old father, who, while independent and able to drive, needs assistance in maintaining his property. Petitioner noted that there were no adverse comments filed by the Baltimore County Department of Traffic Engineering.

Doris Bernhardt and Alias and Caroline Ensor, all residents of Cub Hill Road, appeared on behalf of the Petition. They indicated that in their opinion, the granting of the variance will not create any detriment or increase traffic. Petitioner introduced numerous letters of support from adjoining neighbors and residents of the surrounding area.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Solcy, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

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3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1971).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

After due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner the relief requested sufficiently complies with the requirements of Sections 4A02.4.F and 307 of the Baltimore County Zoning Regulations (B.C.Z.R.). Due to the unique characteristics of this case, and the fact that the Petition is for a single family residence, the variance should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, or general welfare of the public nor create any additional traffic through the area. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 9th day of July, 1990 that the Petition for Special Variance to permit the construction of a single family dwelling on a proposed lot in an area where an intersection failure exists on the basic

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services transportation map, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

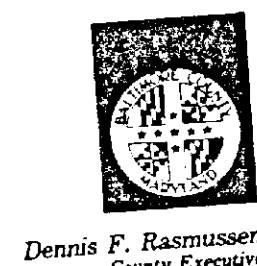
ANN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

- 4 -

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

July 9, 1990



Mr. Reese C. Wellmann
2902 Knoll Acres Road
Baltimore, Maryland 21234

RE: PETITION FOR SPECIAL VARIANCE
N/S Knoll Acres Road, 210' E of Cub Hill Road
(2900 Knoll Acres Road)
9th Election District - 6th Councilmanic District
Reese C. Wellmann - Petitioner
Case No. 90-490-SA

Dear Mr. Wellman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjs

cc: People's Counsel

File

SPECIAL PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-490-SA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 4A02.4.D. To permit construction of a single family residence on a proposed lot in an area where an intersection failure exists on the basic services transportation map.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)
1. Petitioner & Daughter live with his father at 2900 Knoll Acres Road. As a result of the intersection failure at Harford and Cub Hill Roads, the Petitioner's father is unable to travel to work on a daily basis. The Petitioner's father is 82 years old and has a heart condition. He is unable to drive and the Petitioner's father is unable to travel to work on a daily basis. The Petitioner's father is unable to travel to work on a daily basis. The Petitioner's father is unable to travel to work on a daily basis.
2. The Petitioner's father is unable to travel to work on a daily basis. The Petitioner's father is unable to travel to work on a daily basis. The Petitioner's father is unable to travel to work on a daily basis. The Petitioner's father is unable to travel to work on a daily basis.
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5. The Petitioner's father is unable to travel to work on a daily basis. The Petitioner's father is unable to travel to work on a daily basis. The Petitioner's father is unable to travel to work on a daily basis. The Petitioner's father is unable to travel to work on a daily basis.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I do solemnly declare and affirm, under the penalties of perjury, that I we are the legal owner(s) of the property which is the subject of this petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

ORDERED By The Zoning Commissioner of Baltimore County, this 22 day of July, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 22 day of June, 1990, at 2 o'clock P.M.

By J. Robert Haines, Zoning Commissioner of Baltimore County.

(over)

5. 1/2 Mile Street to Excess of 2000' for Sunset Dr
and Harford and Cub Hill Roads.

90-490-SA

Beginning at a point 210 feet North East of centerline intersection of Cub Hill Road and Knoll Acres Road. Said point of beginning being located on North side of Knoll Acres Road a thirty five (35) foot public right of way. Thence proceeding North West a distance of 225.51 feet, thence proceeding North East a distance of 143.75 feet, thence proceeding South East a distance of 101.26 feet, thence proceeding South West a distance of 43.29 feet, thence South West a distance of 5.10 feet, thence South West a distance of 15.17 feet. This being known as lot #2 of the Wellmann Property and having .521 acres also known as 2900 Knoll Acres Road in the 9th election district

LOT 2
LIBER 8367 PAGE 29

"EXHIBIT B"

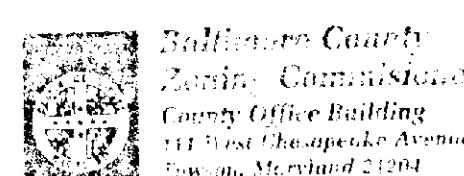
Beginning for the same at a 4" pipe found on the North side of Knoll Acres Rd. (40 feet wide):

1. North 25°-27'-13" West, a distance of 5.00 feet to a 3/8" iron pin now set on the ultimate (50 feet) widening line of Knoll Acres Rd.; continuing on the same line;
2. North 25°-27'-13" West, a distance of 220.51 feet to a 3/8" iron pin now set; said pin being on the Southeastern boundary line of a sub-division known as "Cub Hill" Sections 2 and 3 as shown on two plats recorded among the land records for Baltimore County, Maryland, the first dated December 30, 1958 and recorded in Plat Book W.J.R. 26 Folio 30, and the second dated March 17, 1959, and recorded in Plat Book W.J.R. 26 Folio 74, and running thence with said sub-division line, and also with the second line of the aforesaid Garrett and Taylor to Wellman deed;
3. North 52°-51'-44" East, a distance of 143.75 feet to a 3/8" iron pin now set; thence leaving said lines, and running for three new lines of division;
4. South 36°-08'-16" East, a distance of 101.26 feet to a 3/8" iron pin now set;
5. South 28°-15'-00" West, a distance of 179.95 feet to a 3/8" iron pin now set; and
6. South 25°-27'-13" West, a distance of 43.29 feet to a 3/8" iron pin now set on the ultimate (50 feet) widening line for Knoll Acres Rd.; continuing on the same line;
7. South 25°-27'-13" West, a distance of 5.10 feet to intersect the ninth line of the aforementioned Garrett and Taylor to Wellman deed, on the North side of Knoll Acres Rd. (40 feet wide), said line having an arc length of 48.53 feet, and a radius of 98.30 feet, and running thence on a chord;
8. South 73°-06'-14" West, a distance of 15.17 feet (said curve having an arc length of 15.18 feet and a radius of 124.80 feet) to the place of beginning. Containing 0.531 Acres of land more or less.

Being known as Lot 2 as shown on a plat entitled "Wellman Property" which is intended to be recorded herewith. Said lot being subject to the Highway Widening as shown on said plat.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 9th Date of Posting: 6/1/90
Posted for: Special Variance
Petitioner: Reese Carroll Wellman
Location of property: 2902 Knoll Acres Rd., 210° E of Club Hill Rd.
Location of Sign: 2902 Knoll Acres Rd.
Remarks: 700 sq. ft. on property of Baltimore County
Posted by: J. Robert Haines Date of return: 6/1/90
Number of Signs: 1



Receipt
N. 2776
90-490

Date: _____
By: _____
For: _____
Amount: _____
Cashier Validation: _____

Please make checks payable to: Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

DATE: 6-6-90



Dennis F. Rasmussen
County Executive

Reese Carroll Wellman
2902 Knoll Acres Road
Baltimore, Maryland 21234

Re: Petition for Special Variance
CASE NUMBER: 90-490-SA
N/S Knoll Acres Road, 210° E of Club Hill Road
2902 Knoll Acres Road
9th Election District - 6th Councilmanic
Petitioner(s): Reese Carroll Wellman
HEARING: THURSDAY, JUNE 21, 1990 at 2:00 p.m.

Dear Petitioner:

Please be advised that \$122.41 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland Fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

JRH:gs

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 29, 19 90

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 23, 19 90

TOWSON TIMES,

S. Zate Uman
Publisher

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Special Variance
Case Number: 90-490-SA
N/S Knoll Acres Road, 210° E of Club Hill Road
2902 Knoll Acres Road
9th Election District
6th Councilmanic
Petitioner(s): Reese Carroll Wellman
Hearing Date: Thursday, June 21, 1990 at 2:00 p.m.

Special Variance: To permit construction of a single family residence on a proposed lot in an area where an intersection failure exists on the basic services transportation map.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County
TTJ/S37 May 24

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 29, 19 90

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 24, 19 90

THE JEFFERSONIAN,

S. Zate Uman
Publisher

NOTICE OF HEARING

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J. ROBERT HAINES
Zoning Commissioner of Baltimore County
TTJ/S37 May 24

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner



Dennis F. Rasmussen
County Executive

May 7, 1990

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Special Variance
CASE NUMBER: 90-490-SA
N/S Knoll Acres Road, 210° E of Club Hill Road
2902 Knoll Acres Road
9th Election District - 6th Councilmanic
Petitioner(s): Reese Carroll Wellman
HEARING: THURSDAY, JUNE 21, 1990 at 2:00 p.m.

Special Variance: To permit construction of a single family residence on a proposed lot in an area where an intersection failure exists on the basic services transportation map.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of Baltimore County

cc: Reese Carroll Wellman

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

June 12, 1990



Dennis F. Rasmussen
County Executive

Mr. Reese Carroll Wellman
2902 Knoll Acres Road
Baltimore, MD 21234

RE: Item No. 358, Case No. 90-490-A
Petitioner: Reese Carroll Wellman
Petition for Zoning Variance

Dear Mr. Wellman:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

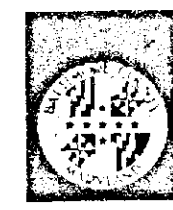
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner



Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this
2nd day of May, 1990.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

Chairman,
Zoning Plans Advisory Committee

Petitioner: Reese Carroll Wellman

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: June 7, 1990
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Reese Carroll Wellman, Item No. 358
Zoning Petition No. 90-490-A

The Petitioner requests a special variance to permit construction of a single-family residence on a proposed lot in an area where an intersection failure exists on the basic services transportation map.

In reference to this request, staff offers the following comments:

- The Reese F. Wellman property was subdivided by deed into two (2) residential lots and a wetlands parcel and was recorded in the Land Records of Baltimore County on January 23, 1990 (see deeds, Liber 8387, Folio 477 to 488). Lot 2, created therein, is a panhandle lot and is subject to the requirements of County Council Bill No. 172-89.
- Section 4A02.4.F of the Baltimore County Zoning Regulations (BZCR) establishes the criteria upon which the Zoning Commissioner can grant a special variance. Staff believe that the criteria have not been met for the following reasons:

1. The district standard is clear and is relevant to the addition of one (1) dwelling unit in that commuted area, irrespective of the present residency of the Petitioner.
2. Other developments have applied for a reserve-capacity-use certificate and are on hold until the appropriate highway improvements are made. Staff believe that the granting of this special variance would adversely affect those who have filed in accordance with Section 4A02.3.G, BZCR.
3. To approve this special variance could cause a snowball effect, negating the purposes of the basic services legislation.

Reese Carroll Wellman, Item No. 358
Zoning Petition No. 90-490-A
Page 2

4. The Petitioner indicates that over \$2,000.00 has been spent on the survey and house plans. Economic hardship is not sufficient grounds for granting a variance.
If there should be any further questions or if this office can provide additional information, please contact Chris Rorke at 887-3335.

PK/JL/cmm

May 24, 1990

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 352, 356, 357, 358, and 360.

very truly yours,

Michael S. Flanigan
Traffic Engineer Associate II

MSF/lvw

Pichon
PROSECUTOR(S) SIGN-IN SHEET

[illegible]

APRIL 25, 1990

RE: Property Owner: REESE CARROLL WELLMANN
Location: 42900 KNOLL ACRES ROAD
Item No.: 358 Zoning Agenda: MAY 1, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: C. H. Jones, Kelly 4-26-90 Noted and Approved Capt. J. L. F. Brubaker
Planning Group Fire Prevention Bureau
Special Inspection Division

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: May 14, 1990

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for May 1, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Item 352.

For Items 357 and 360, the previous County Review Group Comments still apply.

For Item 356, a County Review Group Meeting is required.

For Item 358, a County Review Group Meeting may be required. If Lot 2 was part of Parcel "A", the remainder of Parcel "A" is left with a below standard panhandle access (less than 20 feet along 179.95-foot line).

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWR: 8

We, the undersigned would not be opposed to having Mr. Reese C. Wellmann building a house on the parcel of land known as 2900 Knoll Acres Road, Baltimore, Maryland 21234 in Baltimore County. Having known Mr. Wellmann for a number of years and Mr. Wellmann, having lived in this neighborhood for almost forty (40) years, we feel he would continue to be an asset to our community. We would certainly hope that the variance would be granted to Mr. Wellmann and his family.

Name George Duerbeck
Address 2902 ~~Kennedy~~ ^{14th} Eub Hill Road
Signature George H. Duerbeck

PETITIONER'S
ALLEGATIONS 2

[illegible]